

# Union Calendar No. 8

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 90

**[Report No. 107–13]**

To amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

Mr. FRELINGHUYSEN introduced the following bill; which was referred to the Committee on Energy and Commerce

MARCH 12, 2001

Additional sponsors: Mr. BACA, Mr. GREENWOOD, Mr. HORN, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Ms. BERKLEY, Mr. WATKINS, Mr. CASTLE, Mr. FRANK, Mr. DUNCAN, Mr. PALLONE, Mr. BASS, Mr. REGULA, Mr. LUCAS of Kentucky, Mr. BRADY of Texas, Mr. THOMAS M. DAVIS of Virginia, Mr. MCHUGH, Mr. PETRI, Mr. BENTSEN, Mr. GILCHREST, Mr. WAMP, Mr. PASCRELL, Mr. QUINN, Mrs. EMERSON, Mr. SIMMONS, Mr. HOLT, Mr. BALDACCI, Mr. MCINTYRE, Mr. HOLDEN, Mr. LANTOS, Mr. ROTHMAN, Ms. HART, Mr. HILLEARY, Mr. HINCHEY, Mr. McDERMOTT, Mr. GILLMOR, Mr. LARSON of Connecticut, Mr. EVANS, Mr. BAIRD, Mr. GRAHAM, Mr. STRICKLAND, Ms. RIVERS, Mr. McGOVERN, Mr. LoBIONDO, Mr. UPTON, Mr. HAYWORTH, Mr. PHELPS, Mr. GOODLATTE, Mrs. MORELLA, Mr. SCHIFF, and Mr. ROSS

MARCH 12, 2001

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

# A BILL

To amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

## 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Know Your Caller Act  
5 of 2001”.

## 6 **SEC. 2. PROHIBITION OF INTERFERENCE WITH CALLER** 7 **IDENTIFICATION SERVICES.**

8 Section 227 of the Communications Act of 1934 (47  
9 U.S.C. 227) is amended—

10 (1) by redesignating subsections (e) and (f) as  
11 subsections (f) and (g), respectively; and

12 (2) by inserting after subsection (d) the fol-  
13 lowing new subsection:

14 “(e) PROHIBITION ON INTERFERENCE WITH CALLER  
15 IDENTIFICATION SERVICES.—

16 “(1) IN GENERAL.—It shall be unlawful for any  
17 person within the United States, in making any tele-  
18 phone solicitation—

19 “(A) to interfere with or circumvent the  
20 capability of a caller identification service to ac-  
21 cess or provide to the recipient of the telephone

1 call involved in the solicitation any information  
2 regarding the call that such service is capable  
3 of providing; and

4 “(B) to fail to provide caller identification  
5 information in a manner that is accessible by a  
6 caller identification service, if such person has  
7 capability to provide such information in such a  
8 manner.

9 For purposes of this section, the use of a tele-  
10 communications service or equipment that is incapa-  
11 ble of transmitting caller identification information  
12 shall not, of itself, constitute interference with or  
13 circumvention of the capability of a caller identifica-  
14 tion service to access or provide such information.

15 “(2) REGULATIONS.—Not later than 6 months  
16 after the enactment of the Know Your Caller Act of  
17 2001, the Commission shall prescribe regulations to  
18 implement this subsection, which shall—

19 “(A) specify that the information regard-  
20 ing a call that the prohibition under paragraph  
21 (1) applies to includes—

22 “(i) the name of the person or entity  
23 who makes the telephone call involved in  
24 the solicitation;

1 “(ii) the name of the person or entity  
2 on whose behalf the solicitation is made;  
3 and

4 “(iii) a valid and working telephone  
5 number at which the person or entity on  
6 whose behalf the telephone solicitation is  
7 made may be reached during regular busi-  
8 ness hours for the purpose of requesting  
9 that the recipient of the solicitation be  
10 placed on the do-not-call list required  
11 under section 64.1200 of the Commission’s  
12 regulations (47 CFR 64.1200) to be main-  
13 tained by such person or entity; and

14 “(B) provide that any person or entity who  
15 receives a request from a person to be placed on  
16 such do-not-call list may not use such person’s  
17 name and telephone number for telemarketing,  
18 mail marketing, or other marketing purpose  
19 (including transfer or sale to any other entity  
20 for marketing use) other than enforcement of  
21 such list.

22 “(3) PRIVATE RIGHT OF ACTION.—A person or  
23 entity may, if otherwise permitted by the laws or  
24 rules of court of a State, bring in an appropriate  
25 court of that State—

1           “(A) an action based on a violation of this  
2           subsection or the regulations prescribed under  
3           this subsection to enjoin such violation;

4           “(B) an action to recover for actual mone-  
5           tary loss from such a violation, or to receive  
6           \$500 in damages for each such violation, which-  
7           ever is greater; or

8           “(C) both such actions.

9           If the court finds that the defendant willfully or  
10          knowingly violated this subsection or the regulations  
11          prescribed under this subsection, the court may, in  
12          its discretion, increase the amount of the award to  
13          an amount equal to not more than 3 times the  
14          amount available under subparagraph (B) of this  
15          paragraph.

16          “(4) DEFINITIONS.—For purposes of this sub-  
17          section:

18                 “(A) CALLER IDENTIFICATION SERVICE.—

19                 The term ‘caller identification service’ means  
20                 any service or device designed to provide the  
21                 user of the service or device with the telephone  
22                 number of an incoming telephone call.

23                 “(B) TELEPHONE CALL.—The term ‘tele-  
24                 phone call’ means any telephone call or other  
25                 transmission which is made to or received at a

1 telephone number of any type of telephone serv-  
2 ice and includes telephone calls made using the  
3 Internet (irrespective of the type of customer  
4 premises equipment used in connection with  
5 such services). Such term also includes calls  
6 made by an automatic telephone dialing system,  
7 an integrated services digital network, and a  
8 commercial mobile radio source.”.

9 **SEC. 3. EFFECT ON STATE LAW AND STATE ACTIONS.**

10 (a) EFFECT ON STATE LAW.—Subsection (f)(1) of  
11 section 227 of the Communications Act of 1934 (47  
12 U.S.C. 227(f)(1)), as so redesignated by section 2(1) of  
13 this Act, is further amended by inserting after “subsection  
14 (d)” the following: “and the prohibition under paragraphs  
15 (1) and (2) of subsection (e),”.

16 (b) ACTIONS BY STATES.—The first sentence of sub-  
17 section (g)(1) of section 227 of the Communications Act  
18 of 1934 (47 U.S.C. 227(g)(1)), as so redesignated by sec-  
19 tion 2(1) of this Act, is further amended by striking “tele-  
20 phone calls” and inserting “telephone solicitations, tele-  
21 phone calls, or”.

22 **SEC. 4. STUDY REGARDING TRANSMISSION OF CALLER**  
23 **IDENTIFICATION INFORMATION.**

24 The Federal Communications Commission shall con-  
25 duct a study to determine—

1           (1) the extent of the capability of the public  
2       switched network to transmit the information that  
3       can be accessed by caller identification services;

4           (2) the types of telecommunications equipment  
5       being used in the telemarketing industry, the extent  
6       of such use, and the capabilities of such types of  
7       equipment to transmit the information that can be  
8       accessed by caller identification services; and

9           (3) the changes to the public switched network  
10      and to the types of telecommunications equipment  
11      commonly being used in the telemarketing industry  
12      that would be necessary to provide for the public  
13      switched network to be able to transmit caller identi-  
14      fication information on all telephone calls, and the  
15      costs (including costs to the telemarketing industry)  
16      to implement such changes.

17   The Commission shall complete the study and submit a  
18   report to the Congress on the results of the study, not  
19   later than one year after the date of the enactment of this  
20   Act.

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